

REMARKS**Introduction**

Receipt of a non-final Office Action dated January 24, 2008 is acknowledged. In the action, the claims are subject to a species election.

Status of the Claims

In this response, applicants amended claim 23. Support for the amended claim can be found throughout the specification. Upon entry of this amendment, claims 1, 3, 12, 14 and 23 will be pending.

Response to Species Election

In response to the election of species, Applicants hereby provisionally elect species SEQ ID NO: 16 for examination, with traverse.

Claim 23 was directed to a vaccine comprising a soluble HM 1.24 peptide that has the amino acid sequence of SEQ ID NO: 5 or SEQ ID NO: 17. But as correctly noted by the Office, SEQ ID NO: 5 is drawn to a nucleotide sequence. Accordingly, for the purpose of clarification, applicants amended claim 23 to refer to SEQ ID NO: 16, which is the amino acid sequence corresponding to SEQ ID NO: 5.

Applicants request that both SEQ ID NO: 16 and SEQ ID NO: 17 be examined together for the following reasons. SEQ ID NO: 16 consists of 132 amino acids and SEQ ID NO: 17 consists of 115 amino acids. SEQ ID NO: 17 is a part of SEQ ID NO: 16 and therefore, the amino acid sequence of SEQ ID NO: 17 is completely the same as amino acid position numbers 1 to 115 of SEQ ID NO: 16. Accordingly, both sequences are very related and substantially the same in their structure and the burden to search both sequences would not be undue.

Furthermore, as can be seen from Reference Example 1, pages 25-27 of the specification, SEQ ID NO: 5 encoding SEQ ID NO: 16 is contained in plasmid psHM, and SEQ ID NO: 7 encoding SEQ ID NO: 17 is contained in plasmid psHM163. And from

Reference Example 2, both plasmids psHM and psHM163 were expressed, and the properties of the expressed proteins, *i.e.*, SEQ ID NO: 16 and SEQ ID NO: 17, were tested. Results concluded that both proteins are soluble and specifically bind to an anti-HM1.24 antibody. Thus, the biological (and structural) properties of both proteins are substantially the same and therefore, applicants respectfully request that both SEQ ID NO: 16 and SEQ ID NO: 17 be examined together.

The examiner is reminded to follow the procedure in M.P.E.P. 803.02 and extend the search to the other species recited in the claims, should the elected species be free of the prior art.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

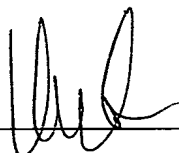
Examiner Sang is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 2/25/08

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5569
Facsimile: (202) 672-5399

By  2/25/08

Stephen B. Maebius
Attorney for Applicant
Registration No. 35,264